IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 884 OF 2006

Umashankar Faguram Gupta. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri Ashok Mishra for Applicant.
Shri Y.S. Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : MARCH 2, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. The offence is registered against the applicant for the offence punishable under Section 324, 504, 506 IPC read with Section 3(I)(x) of the Prevention of Atrocities Act, 1989. The applicant is a Medical Practitioner. It is alleged that the applicant banged the head of the complainant on the wall and questioned him why he was helping his rival one Maruti Mondale and while banging the head of the complainant, the applicant said "Tumhi Adivasi Thakur Majhe kaya Wakade Karnar"

2. Learned APP submits that the provisions of Section 438 are expressly excluded under the provisions

of the said Act and therefore, the application is not maintainable.

3. In my view, looking to the nature of the complaints and the averments mentioned therein, prima facie, no case is made out for the offence punishable under the Atrocities Act. This Court in Vhatkar's case held that High Court is empowered to consider whether FIR discloses any prima facie material. Learned APP has also shown me the FIR and the other material on record. The FIR and other material on record does not disclose prima facie case against the applicant and under the Atrocities Act.

4. In the circumstances, the applicant, in the event of his arrest, on a complaint registered by Kulgaon Police Station, Badlapur, Thane, vide C.R.No.I-4/2006 for the offence punishable under Sections 324, 504, 506 of the IPC read with Section 3(1)(x) of the Atrocities Act, 1989, be released on bail in the sum of Rs.5000/- with one or two sureties in the like amount.

. The application is disposed of.

(V.M. Kanade, J.)